IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION NO. 3:11-CR-00386-FDW-DSC

UNITED STATES OF AMERICA,)	
)	
)	
)	
v.)	<u>ORDER</u>
)	
JOSE MORENO-AZUA,)	
)	
Defendant.)	

THIS MATTER is before the Court on Defendant's pro se letter requesting new counsel (document # 14) filed on September 30, 2013. The Court held a hearing in this matter on October 7, 2013.

Defendant was convicted after a jury trial before Chief District Judge Frank D. Whitney. The presentence report is in draft form and Defendant is awaiting sentencing. Defendant faces a sentence of mandatory life without parole. He rejected a plea offer that would have reduced his exposure to twenty years to life. During the hearing, the Court heard from Defendant, appointed counsel Randolph Lee, and the Government. Defendant complains that he is generally unhappy with Mr. Lee's representation.

The Court acknowledged the serious nature of the charges and penalties that Defendant faces, but advised him that appointment of new counsel would not change those circumstances and removing counsel at this late stage could actually be detrimental to his case.

"Because the right to choose counsel is not absolute, it necessarily follows that a defendant does not have an absolute right to substitution of counsel. As a general rule, a defendant must show good cause in requesting a new appointed lawyer." <u>United States v. Mullen</u>, 32 F.3d 891, 895 (4th Cir. 1994). Here, Defendant's complaints do not establish good cause for the Court to appoint new counsel. Based upon the foregoing, the Court finds no basis to remove Mr. Lee as appointed counsel.

The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Frank D. Whitney

SO ORDERED.

Signed: October 7, 2013

David S. Cayer

United States Magistrate Judge